

APPENDIX

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(December 17, 2018)

Appendix A
The Ruling of The Circuit Court of Dale County,
Alabama
(August 15, 2018)

IN THE CIRCUIT COURT OF DALE COUNTY, ALABAMA

BRAY WILLIAM O,
BRAY TERESA VAUGHN,
WACHOVIA BANK NKA WELLS,
FARGO,
ALABAMA CREDIT LAND &
FARM LENDERS FKA FEDERAL)
ET AL,
Defendants.

Robert Vaughn a/k/a Judson Vaughn is the plaintiff, and his sister and

brother-in-law, William O. Bray are the defendants. The mother of the plaintiff and the defendant, Teresa Bray is Verna Vaughn.

On April 17, 2002, Verna Vaughn conveyed 10.73 acres by deed to Teresa Vaughn Bray and her husband, William O. Bray by warranty deed and on May 24, 2002 conveyed the remaining of the 158 acres to Teresa Bray. The property is known as "the Farm" and "Sycamore Hill".

Both deeds were properly signed, sealed and witnessed, notarized and delivered to Teresa Bray and William O. Bray after their execution in 2002. The Brays took possession of the property. The transaction was completed in the spring of 2002.

In a Notice to Judson Vaughn dated June 3, 2002 (Defendant's Exhibit G), Teresa Bray notified Judson Vaughn and informed him that she owned the property formerly owned by her mother, Verna Mathison Vaughn, and that if he expected to live in the house, he would have to pay rent of \$500.00 per month.

Also, by letter from Judson to Teresa dated June 23, 2003 (Defendant's Exhibit F); Judson acknowledged that on June 3, he had received a copy of the new warranty deed, along with stipulation concerning rent and the use of Sycamore Hill. In the letter, he offered to renounce any claim he may have to the property for reimbursement of \$35,000.00 for expenses in remodeling the house starting in 1987, and to refrain from taking any legal action to claim future legal right to the

property or house.

In this letter of June 23, 2003, the plaintiff acknowledged that he had the right to go to court and fight for the property.

Also, according to the plaintiff's statement and pleading, he and his wife took Verna Vaughn to attorney Wade Baxley's office in Dothan, on November 5, 2002 for the purpose of restoring the joint Power of Attorney to Judson and to file suit against Mr. & Mrs. Bray to set aside the warranty deed. After conferring, attorney Wade Baxley and the plaintiff concluded Verna Vaughn did not understand what they were asking her to sign and that concluded the meeting and Mrs. Vaughn had not signed any document.

At that time Mr. Baxley did advise the plaintiff that the Statute of Limitations may be running against their claims.

Also, on January 8, 2004, Mrs. Bray and her husband executed a Real Estate and Security Agreement with respect to a substantial part of the property in favor of Alabama Ag to secure a debt. The mortgage was recorded February 20, 2004. On November 26, 2006 Mrs. Bray conveyed approximately 6 acres of the property to Wendy Ward. In 2012 the plaintiff entered into an agreement with Alabama Ag that the mortgage shall remain valid, binding and enforceable with respect to the property described thereon regardless of the outcome of the litigation.

Verna Mathison Vaughn, the mother, died October 29, 2007. The plaintiff's

mother said was made in 2007. Again the mother is not here to admit or deny because of the delay in filing the suit for years.

The court finds that according to the defendant he purposefully chose not to take legal action because of the involvement of the mother. The delay in filing a legal action cause the defendants to be illegally and unduly prejudiced in losing the primary witness, the mother, and other knowledgeable and corroborating witnesses.

The Court further finds there was no confidential relationship between Judson Vaughn and his sister and brother-in-law, Teresa Bray and William O. Bray. The Court finds that defendants did nothing to influence the plaintiff not to proceed with legal action. There was no undue influence by the defendants that kept the plaintiff from proceeding with legal action to declare the mother incompetent and to set aside the deeds.

The Doctrine of Laches applies to facts of the case Equal Employment Opportunity Commission v. Dresser Industries, Inc., 668 F2d 1199 (11th Cir. 1982); Hanks v. Crane, 979 So.2d 801 (Ala.Civ.App. 2007); Meeks v. Meeks, 251 Ala. 435, 37 So2d 914 (1948); City of Huntsville v. Stove House 5, Inc., 3 So.3d 186, 191 (2008); Oak Grove Res., LLC v. White, 86 So3d 963 (2011).

The delay in this case was purposeful and unreasonable and not excusable and the delay for 5 years to file the legal action after the mother's death caused the defendants to be illegally and unduly prejudiced in losing the primary witness, the

suit to set aside the deed was filed November 21, 2007. The plaintiff did nothing to legally contest the transaction until 5 years after the deeds were executed and after the mother had died.

The Court finds that the plaintiff failed to do what should or could have been done to assert a claim within a reasonable length of time after he acquired knowledge of the transactions. Based on the plaintiff's statement and pleadings, he knew he could file a legal action, but he allowed time to lapse.

The plaintiff waited until the mother died to file suit and begin an action to set aside the deeds on the claim that the defendants exercised undue influence and coercion to procure the deeds from Verna Vaughn, the mother.

If the suit was filed while the mother lived, the mother could have testified in court as to the claims made by the plaintiff. The only one, as a witness, who could have explained her wishes and desires and intentions associated with the subject transactions first-hand.

As to Sherry Stower's official notes and the ombudsman, Grey Price's official notes of 2003, filed with the plaintiff's response to the defendants' Motion for Summary Judgment, concerning emotional abuse, threats, verbal abuse and mistreatment of mother by the defendant's daughter and son-in-law, the primary witness, the parties mother is now dead and the daughter is prevented from calling the mother to refute the allegations in the report. The report of what they say the

mother, and other knowledgeable and corroborating witnesses.

The delay was purposeful to avoid confronting the mother, the primary and most important witness who conveyed the land in question. And a result of the delay, the defendants were unduly prejudiced in that material witnesses became unavailable and evidence lost.

THEREFORE, it is Ordered and Adjudged as follows:

1. Motion for Summary Judgment granted pursuant to Rule 56 of the Alabama Rules of Civil Procedure that a result of the Doctrine of Laches there is no genuine issue as to any material fact and that the defendants are entitled to a judgment as a matter of law.
2. Judgment for the defendants on Count I regarding the deed of April 17, 2002, and the deed should not be set aside and shall remain valid and in full force and effect.
3. Judgment for the defendants on Count II regarding the deed of May 24, 2002, and the deed shall not be set aside and shall remain valid and in full force and effect.
4. Judgment for the defendants of all other counts which have not been previously dismissed.
5. This cause is hereby dismissed.

DONE this 15th day of August, 2018.

/s/ P. B. MCLAUCHLIN
CIRCUIT JUDGE

Appendix B
The Certificate of Judgment by the Supreme
Court of Alabama
(December 13, 2019)

IN THE SUPREME COURT OF ALABAMA



December 13, 2019

1171207 Robert L. Vaughn Jr. aka Judson Vaughn v. William O. Bray, et al. (Appeal from Dale Circuit Court: CV-07-232).

CERTIFICATE OF JUDGMENT

WHEREAS, the ruling on the application for rehearing filed in this case and indicated below was entered in this cause on December 13, 2019:

Application Overruled. No Opinion. Stewart, J. - Parker, C.J., and Bolin, Wise, and Sellers, JJ., concur.

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on August 9, 2019:

Affirmed. No Opinion. Stewart, J. - Parker, C.J., and Bolin, Wise, and Sellers, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Julia J. Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 13th day of December, 2019.

A handwritten signature in cursive script, reading "Julia J. Weller".

Clerk, Supreme Court of Alabama

**Additional material
from this filing is
available in the
Clerk's Office.**